

Bharat's Kashmir War*

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In the last two years a lot has been written on Kashmir. But arguments on all sides have been more in the nature of assertions rather than informed reasoning. Just as most Indians instinctively recoil at the very suggestion of Kashmir's secession, among those who uphold the right of self-determination, Kashmir's separation is an article of faith. A principle, however, does not have a priori application. More importantly, each time a demand for separation is made it reflects on the character of the polity from which separation is sought. This paper attempts to clarify the Kashmir imbroglio by investigating its genesis in the context of the Indian state's responses.

I

Every now and then reports appear about destruction of temples or the change of names of villages in Jammu and Kashmir. As many as 62 temples, it is claimed, were 'burnt and damaged in Kashmir by terrorists in 1990'. A list of 644 villages alleged to have been renamed in 1981–82 by J and K government order is provided. The inference is that many traditional places have been given Islamic names in Kashmir.

When the state and central governments did nothing to refute these allegations an 'informal' inquiry was instituted by a senior civil servant. A *tehsildar*, in his official capacity, visited the places alleged to have been damaged and after verifying wrote a report. The contents of the report remain undisclosed. But an article based

*This article owes a lot to far too many people with whom I share common concerns and dreams. But mention must be made of some. Ishtiaq prompted my curiosity. Dipankar, Sumanto and Tapan have patiently borne very many of my confused and monologic exercises and encouraged me most. Chou not only read through the manuscript but helped with the programming and along with others made the most useful suggestions. Probir and Raghu provided the nuance. And Venugopal was most patient with my at times intolerable demands. Through it all Ingrid helped set the deadline. To all my very best thanks. However, the responsibility for the arguments and their arranged order, in all their shortcomings, remain mine.

on the report was carried in a newspaper.¹ Suggesting that there was no truth in the allegation of damage or destruction of temples at Jawaharnagar, Karan Nagar, Ganpatyar, Dashmani Akhara, Bairav, Sheetalnath and Fateh Kadal. Indeed some of the temples and '*dharamshalas*' were occupied by CRPF or BSF and yet not made targets by militants. The report also found no communal pattern behind changes of names.

It is not as though these allegations are new. They have been around for a long time. As early as 1986 a similar brouhaha was made about desecration of temples. But since 1989 there has been a continuous barrage with the BJP making use of this in the past two elections. There is no reason to believe that the government is unaware of all this.

Considering the delicateness of the matter the question arises why did the state and central governments not refute the allegations, conduct a formal inquiry and publicise the findings? And why the silence to this date? Consider the ease with which official statements rebutting critics are issued. No sooner an inquiry is ordered, to look into criminal acts of the security forces, within days if not hours a statement giving the 'true facts' exonerating the security forces are released. Why therefore the reticence on this issue?

The reason for the reticence, I believe, is that it helps maintain a sharp image of the 'other' as lawless and violently fanatical in their conspiratorial pursuits to dismember the 'nation'. The reticence then goes to help perpetuate not only hostility towards the 'other' but sustains a self-image which goes to the very roots of the 'official nationalism'² of post-partition India.

Recent events show that in multi-lingual and multi-religious societies ethnicity seems to serve more readily as a basis for interest articulation and aggregation, as well as the mobilisation of social groups. It appears, that in such societies primordial ties are more real and thus more effective as a means of pursuing political goals. But this tendency does not derive from some innate propensity of people to respond to primordial stimuli, rather it is indicative of the failure of the political process to

¹*Indian Express* (Delhi), May 8 and 11, 1991.

²Benedict Anderson says "from about the middle of the nineteenth century there developed ... official nationalisms inside Europe. These nationalisms were historically 'impossible' until after the appearance of popular linguistic-nationalism for at bottom, they were responses by power-groups — primarily, but not exclusively, dynastic and aristocratic — threatened with exclusion from, or marginalisation in popular imagined communities ... Such official nationalisms were conservative, not to say reactionary, policies adapted from the model of the largely spontaneous popular nationalisms that preceded them ... Nor were they ultimately confined to Europe and the Levant". Benedict Anderson, *Imagined Communities Reflections on the Origin and spread of Nationalism*; Verso, 1983, p. 102.

provide solutions to competing and conflicting interests on a secular and democratic basis. Ethnicity may be defined “as the tendency of groups bound together by consciousness of common ancestry, religion, sect, language or cultural tradition to strive for the protection of the interests of their members in relation to other groups and the state” [Ahmed, 1990, p. 2]. This feeling of belonging together, of sharing common symbols and a structure of tradition, provides cohesion to the ethnic identity.

But primordial difference at times generate conflict while at other times they co-exist in relative peace and stability. Also, since primordial differences can be several, the important fact is to locate which specific difference is being activated and stressed and why, in specific situations [Ahmed, pp. 3–4 and Dipankar Gupta, 1991, p. 8]. For instance it is perfectly possible in certain situations to perceive class oppression in terms of ethnic divisions and it is also possible to deny ethnic divisions in the name of class oppression. Arguments and counter-arguments on the issue of reservation is a reminder of this phenomenon.

A fact to remember here is that there seems to be a close relationship between the state and a dominant ethnicity. States generally are distinguishable on some ethnic basis: language, religion, or some other particularity. In multi-ethnic societies an identifiable ethnic group aspires to and often indeed dominates the state giving rise to what has come to be described as official nationalism. In India, attempts at constructing a nation has proceeded along the lines of carving out ethnicity built around cultural artefacts of Hinduism howsoever defined or understood. And it is this Hinduism which informs the very notion of ‘national mainstream’.

Hinduism is not, however, a stable and constant construct. There are far too many lines of fissure in it; caste, language, and sects. Nevertheless there is a deliberate ongoing process which seeks to define Hinduism. One such effort underway defines the ‘Hindu’ as one who looks upon the land that extends from Indus to the seas as his ‘fatherland’, regards it as his ‘holyland’, and claims as his own the culture of his race expressed in the classical language Sanskrit [Andersen and Damle, 1987, pp. 34 and 150]. In this the ‘otherness’ is automatically clear, being one which does not fit this in its totality. Thus the coalescing of interest articulation is only in relation to its binary opposite i.e. the perception of the ‘other’.

Assimilation, however, is problematic. Whilst integration means inclusion into a larger whole while simultaneously retaining one’s separate group identity, assimilation would require the group to merge itself completely; an act of near self-obliteration of one’s cultural mores and traditions in favour of the dominant group. This is the position of the above mentioned ‘mainstream’ nationalism in India with regard to cultural others and minorities.

On the other hand, deliberate attempts to assimilate ethnic groups into some

unified community too have gained ground and have usually been accompanied by the employment of force. Given the centrist nature of the state the politics of assimilation are neither democratic nor secular. Therefore, ethnic problems explode into separatist challenges when the state has been *perceived* to have moved away from its democratic and secular credentials.

The genesis of the Kashmir problem lies in the events of 1947, in particular the partition of the country. The attempts at assimilating Kashmir demonstrate most sharply the official nationalism of the Indian state. The reason being that this was a predominately Muslim state under a Dogra Hindu ruler where the pre-eminent political formation in the state was in favour of the state's accession to India. The trajectory of the Kashmir crisis can be understood when one observes the coming together and the drifting away of Kashmir from post-partition India.

The official nationalism of the post-partition period sought to create an integrated India. Unencumbered by the need to accommodate the All India Muslim League (AIML), the Indian National Congress (INC) turned its back on all the major 'concessions' it had earlier pledged.

Constitution making, for instance, underwent a significant and decisive change with the June 3, 1947 announcement to divide the country. This had repercussions on issues such as federation, official language policy, minority safeguards, and secularism. A major illiberal thrust on these issues does signify the fortification of a perspective which received endorsement with partition, namely, the privileging of a national personality understood in religious-cultural terms. Consequently, along with the efforts towards centralisation of economic and political powers the capitalist state also attempted to bring about 'homogenisation' of culture [Devnathan, 1990, pp. 6–16].

Therefore the official ideology of the Indian 'nation'-state embedded in the Constitution can serve as the reference point for seeking to understand the ideas that guided India's relations with Kashmir. The question of the union, of minorities, of national language, of secularism, all surface vividly in the history of independent India's interaction with Kashmir.

It is important to focus on the questions mentioned above for they help to identify the continuity between the formation of 'official nationalism' and the development of separatism. True no idea however consistent can have much hope of being accepted if the soil for its acceptance is not prepared. This soil was prepared, as we shall soon see, in the manner in which the demand for self-determination by the Kashmiris on the Indian side of Kashmir was created by a deliberate logic of creating "India, that

is Bharat” proclaimed by the Constitution.³

II

It is commonly believed by the RSS and its sympathisers that Kashmir became a part of India when the *maharaja* Hari Singh of his ‘free will’ joined India.⁴ Although according to VP Menon, secretary in the ministry of states and confidant of Sardar Patel, the ruler of Kashmir was “hoping for the best while continuing to do nothing. Besides he was toying with the notion of an ‘Independent Jammu and Kashmir’ ” [V P Menon, 1961, p. 377]. It was the major political force arrayed against the ruler which favoured accession to India. This tilt towards India was the product of a vision of this popular force in favour of a democratic secular India. In no small measure this was also conditioned by the historical experience of Kashmir.

The regime of the *maharaja* had an overtly communal character. The structure and policy of Dogra absolutism discriminated against the Kashmiris, and in particular, the Muslim masses of the valley, who were at the bottom of the social hierarchy in the state. The lack of an organised movement till 1930–31 helped the state machine manned by Punjabis and Dogra Rajputs to coerce and oppress the subordinate classes. Even the Kashmiri Pandits were victims of Dogra autocracy in the initial period because more than 60% of gazetted posts went to Dogras, especially Rajputs, despite their inferior educational qualifications [Prakash Chandra, 1985, p. 38].

The backwardness of the Muslims was the product of the policy of the *Maharaja* to keep them out of power and patronage. He did not provide them with equal opportunities in trade, industry, education, jobs, and agriculture. The Muslims of the state, thus, became the worst sufferers from the triple burden of racism, communalism and casteism. This was evident in the juridical structure under the *Maharaja* which

³It is interesting that in July 1947 the *Memorandum on the Indian Constitution* held that “ ‘India’ has been suggested for the name of the State as being the shortest and the most comprehensive” [FIC, Volume I, *ibid.*, p. 575]. And as late as during February–October 1948 the substitution of ‘India’ with ‘Bharatbarsa’ was rejected on the ground that the term ‘India’ has not only been in “current use for well over a century and a half but is also well known in the international world. It is not therefore advisable to change it to ‘Bharatbarsa’ throughout the Draft (Constitution)”. See *Comments and Suggestions on Draft Constitution*, [FIC, volume IV, *ibid.*, p. 6]. However by September 17, 1949 an amendment was moved and accepted which declared “India, that is Bharat, shall be a Union of States”. No explanation was offered for its inclusion. See [FIC, A Study, p. 142].

⁴See *Indian Express* (Delhi), September 12, 1991 for BJP leader A B Vajpayee’s contention that the ruler of Kashmir joined India of his ‘free will’ and therefore if some people are now unhappy, they can go away where they want, but another division of the country cannot be tolerated.

laid down that everyone except a Dogra man could be hanged for murder [Chandra, p. 39].

The communalisation of the feudal structure was the basis of Dogra Hindu rule. The Hindus from outside were given opportunities to establish business, trade and industry on far more favourable terms than those offered to the Muslims of the valley. "The communal nature of the feudal economy was evident in the fact that out of 25 *jagirs* that were granted during the first five years of *Maharaja* Hari Singh, only two went to the ... Muslims," [Chandra].

POPULAR ANTI-FEUDAL MOVEMENT

These feudal policies of the *Maharaja* set the stage for the 1931 upsurge. The issues of desecration of the Koran and the dismissal of the complainant from services triggered the upsurge. The arrest of a young man Abdul Qadeer who exhorted the people to overthrow the Hindu *Maharaja* and his trial inside the Srinagar jail premises occasioned the incident on July 13, 1931 in which 17 people died in police firing and scores injured. To this day July 13 is celebrated as *Martyr's Day* all over the Kashmir valley. Notwithstanding this the revolt against such a regime cannot be branded as Muslim communalism. In fact, it was a revolt against feudal fetters. "The *zamindars* of Kashmir are deprived of the proprietary rights over their lands, whereas those of Jammu fully enjoy those rights", wrote the unknown author/s of a document submitted to the ruler in 1931. They added, "The people of Kashmir cannot sell or mortgage their lands of their own free will. They cannot even cut the mulberry, the walnut, and the chinar trees on their private lands" [NN Raina, 1988, p. 100]. Alongside were other trappings of feudal autocracy "a pattern of abduction, rape, desecration of the Holy Quran, mosques, and sacrilege in other ways" [Raina].

The protest helped the growth of a movement against the *Maharaja*. In the following years of freedom struggle two contending formations emerged. In 1938 the Muslim Conference split with a section led by Sheikh Abdullah forming the All Jammu and Kashmir National Conference (AJKNC). The latter described the 1931 upsurge as "a war of the oppressed against the oppressor. Its aim is nothing more or less than to seek justice and redress. If the ruler was Muslim and his subjects the Hindus, the war would have been fought on similar grounds" [Prakash Chandra, p. 39].

Not unexpectedly *Maharaja's* presentation of the events of 1931 succeeded in alarming the communalist section in India. In the name of Indian nationalism a resolution was passed by the Hindu Mahasabha in its Akola session of August 15, 1931

which stated: “The Hindu Mahasabha looks upon with fear at the fiery propaganda carried on against the *Maharaja* of Kashmir”. And the *Maharaja* was far from passive: he blessed the formation of three political parties: The Kashmiri Pandit Conference, the Hindu Sabha in Jammu and the Sikhs’ Shiromani Khalsa Darbas.

Inside Kashmir some leaders among Kashmiri pandits adopted a narrow communal and opportunist posture. They demanded job security for themselves (along the lines accorded to Anglo-Indians).

The convergence of feudal vested interests belonging to both Hindu and Muslim communities becomes evident with the progress and maturity of the AJKNC struggle. Various landlords like Nazir Hussain, Jagirdar Raja Villayat Khan, Akram Khan, etc, openly aligned with the *Maharaja* against the AJKNC led by Sheikh Abdullah. Mir-waiz Maulvi Yusuf Shah also joined this alliance at the end of 1932. The NC leaders were now confronted by various hostile forces.

The growth of political consciousness in Jammu and Kashmir took place against the background of the above social conditions. Since, the Muslims of Kashmir valley were the first target of feudal exploitation, they also quite naturally happened to be the first to raise the banner of revolt against it in 1930–31. The success of the struggle lay in the participation of all sections of population in the state by breaking away from the AJKMC and forming AJKNC in 1939. Subsequently NC affiliated itself to the All India States People’s Conference, an organisation floated by the INC. This move was not a product of a private battle between leaders. It arose out of a difference in perspective. AJKMC explained the oppression of Kashmiri Muslims in terms of their religious opposition to the ruler and therefore saw the solution in a theocratic state. The AJKNC, on the other hand, explained the oppression to be a result of feudalism and ending feudal hold of the *jagirdars* as the solution. Their demand was for socio-economic independence.

It was in the background of such political changes that the toilers formed one of the strongest detachments of the National Conference in the years 1940–50. Their impact was obvious in the Mirpur session of the National Conference in 1942 when it passed the resolutions sending greetings to the Red Army and expressing its solidarity in the heroic fight against fascism. They provided the authorship to the *Naya Kashmir* manifesto of the National Conference [*Ibid.*, p. 40].

The *Naya Kashmir* manifesto spelled out in the most unambiguous terms the ‘Peasant Charter’, ‘Workers Charter’, ‘Women Charter’, etc.

FROM ANTI-FEUDALISM TO ETHNIC PROTECTION

It was this programme that helped consolidate the Kashmiri identity. A memorandum sent by NC to the Cabinet Mission in May 1946 affirmed the right of the people to absolute freedom from autocratic rule.

The basic underpinning of this idea of Kashmiri identity was its anti-feudalism.

The process of consolidation of Kashmiri national identity was aided by several other factors. Territorial homogeneity, common cultural characteristics, and historical heritage, as well as linguistic identity contributed to the Kashmiri sense of ethnic self-awareness. It is this ethnic self-consciousness and the quest for survival and growth which formed the basis for the subsequent search for a political solution whereby their distinct character could be protected and furthered. It was by no means an isolationist search. Therefore, the final parting of ways between the AJKNC and AIML by 1946 reflects a conscious political choice made by the preeminent Kashmiri political formation to seek an arrangement with the INC for an accession which provided maximum internal autonomy to J and K. The point to note is that this identity developed more clearly in the process of the overthrow of Dogra rule.

A point to remember is that the national movement in Kashmir forged ahead amidst a popular all-India movement against the British Raj even as the Hindu and Muslim division was gaining ground. After the anti-feudal struggle reached its next high point in 1946. Launching this struggle for a decisive victory, Sheikh Abdullah, on May 15, 1946 reiterated at Srinagar:

The demand that the princely order should quit the state is a logical extension of the policy of 'Quit India'. When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people ... *the rulers of Indian states have always played traitor to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the Treaty of Amritsar, and Quit Kashmir. Sovereignty is not the birthright of Maharaja Hari Singh. Quit Kashmir is not a question of revolt. It is a matter of right* (emphasis added) [Prakash Chandra, p. 40].

The significance of this perspective can only be appreciated against the continuing propaganda of the MC appealing to the Muslim ness of the Kashmiri. Indeed, in January 1947 MC willingly participated in the elections even though it was based on limited franchise which allowed only 8% of the adult population to vote. Finally, 30% of the 6,07,000 eligible voters cast their votes. Predictably the MC won 16 Muslim seats out of 21. The NC had unequivocally boycotted the polls.

Although the NC was the more popular of the two, MC retained an articulated presence in J and K especially in the Poonch region of J and K state. Once the communal bloodbath began the appeal of MC was certainly on the ascendant. Political developments in J and K paralleled happenings elsewhere. Movement of refugees through the state to and from the divided Punjab accentuated tensions. Within Kashmir the MC combined its 'no tax campaign' with an appeal for 'direct action' along the lines of AIML. The *Maharaja* using his Hindu–Sikh troops brutally suppressed the MC agitation. The 'quit Kashmir' campaign launched by the NC against the *Maharaja* too was ruthlessly attacked by the troops. In the midst of these developments Dogra ruler Hari Singh and his prime minister Ram Chand Kak decided to remain ambivalent about which dominion they would join. The ruler had signed a Standstill Agreement with Pakistan in regard to maintenance of the existing arrangement in respect of posts, telegraph etc. When the offer of similar Standstill Arrangement was made to it India prevaricated. Simultaneously, the *Maharaja* strengthened the Sikh and Hindu garrison in the Muslim areas. Towards the end of July 1947 the *Maharaja* ordered Muslims to deposit arms with the police. As the agitation spread repression against Muslims became worse especially in Jammu and Srinagar.

In the tussle for leadership of the movement in Kashmir it was, by no means a foregone conclusion that NC had complete sway. Two days before Sheikh Abdullah was released Nehru wrote to Sardar Patel that Sheikh Abdullah "is very anxious to keep out of Pakistan and relies upon us a great deal for advice. But at the same time he cannot carry his people with him unless he has *something definite* to place before them" (emphasis added) [A G Noorani, 1991, p. 19].

That "something definite" NC needed was the assurance of the Indian leaders that accession would be subject to approval of the people of Kashmir, thus outflanking the MC. This commitment was made a part of the Instrument of Accession, signed on October 26, 1947, through the exchange of letter between the *maharaja* and the governor-general of India. But winning over AJKNC was not the only concern. There were other considerations too. The assurance was also meant to bring the ruler and NC together. Only thus can developments leading up to accession be explained.

On February 20, 1947, the declaration of transfer power to the responsible Indian hands was made. Clement Atlee, the prime minister of Britain declared: "As was explicitly stated by the Cabinet Mission, His Majesty's Government do not intend to hand over their powers and obligations under paramountcy to any government of British India" In response the INC first appealed to the Chancellor of Chamber of Princes to allow state representatives to join the Constituent Assembly.⁵ Sub-

⁵In this connection it is interesting to note what AIML and INC had to say in 1947 with division

sequently on April 18, 1947 addressing the annual session of the All India States People's Conference Nehru warned that any state which did not come into the Constituent Assembly would be treated by the country as a hostile state. The INC also demanded that the political department and its agencies should be transferred to the new government of India.

The political department was renamed the states department which took over the job of negotiations with the princely states. Since the general tendency among the rulers was to make the most of the lapse of paramountcy negotiations between princely states and government of India became important. V P Menon the secretary in the states department revived an early scheme of his from December 1942 under which states would be asked to accede only on defence and external affairs. To this was added communication.

Menon also suggested that the alienation of Hindu rulers from Pakistan following the communal flare-up in north India could be used to advantage. This was of particular significance when considering Kashmir. Moreover, with regard to Kashmir the states ministry had made no approach to the ruler at all. In states which were recalcitrant or prevaricating such as Junagadh and Hyderabad the respective States People's Conference were supported by the government of India to demand accession to India and the religious affinity of the population came in as handy here as that of rulers in the wake of communal holocaust and partition. But in Kashmir the situation was altogether special — the Hindu ruler was vacillating and delaying his decision while the party allied to INC through the All India States People's Conference was more popular among the Kashmiri Muslim majority.

Writing to Sardar Patel on September 27, 1947, Nehru wanted him "to take some action ... to force the pace and turn events in the right direction. We have definitely a great asset in the National Conference provided it is properly handled. It would be pity to lose this. Sheikh Abdullah has repeatedly given assurances of wishing to co-operate and of being opposed to Pakistan; also to abide by my advice. I would again add time is the essence of the business and things must be done in a way so as to bring about the accession of Kashmir to the Indian Union as rapidly as possible with the cooperation of Sheikh Abdullah". The phraseology itself points to the very

imminent on their respective positions on the status of the princely states. AIML in a statement issued on July 30, 1947 held that "with the lapse of paramountcy ... all Indian States would automatically regain full sovereign and independent status. They are therefore free to join either of the two Dominions or to remain independent." INC thought otherwise. The AICC resolution issued on June 15, 1947 held that lapse (of paramountcy) does not lead to the independence of the States" Besides "people of the States must have a dominating voice in any decisions regarding them ...", see [A G Noorani (1964), pp. 22–23].

conscious understanding of the interests of the ‘union’. But that apart the key phrase is “assurance of wishing to co-operate and of being opposed to Pakistan”. This became necessary because “if by any chance that [National Conference] is hostile or even passive then the *Maharaja* and his Government become isolated and the Pakistani people will have a relatively free field” [MJ Akbar, 1991, p. 104]. Implicitly, the Indian leadership regarded itself as a claimant for Kashmir precisely as Pakistan was. It is an irony of history that in the very contention between the AIML and the INC to possess Kashmir lay a basic unity of purpose. And to this day the two countries treat Kashmir as a matter to be resolved between India and Pakistan. But to return to the original point it was equally clear to both AIML and INC that the ruler was on his own in no position to exercise his “free will”; and of the two forces NC alone could ensure Kashmir’s accession with India. In other words for Indian leadership the AJKNC was the only necessary agent furthering the Indian claim to Kashmir.

Sardar Patel did take action as Nehru desired. One of them was to solicit the help of RSS leader Golwalkar to persuade the *Maharaja* to join India. In his turn Golwalkar met the *Maharaja* in October 1947 and urged him to recruit Punjabi Hindus and Sikhs into his militia [Andersen and Damle, 1987, p. 49]. (It is interesting, in this connection that after the second world war the *Maharaja* had refused to recruit 60,000 out of the nearly 72,000 Muslim citizens of the state who had been drafted in the British Army during the war because they were potential risks as Members of his army. But he did accept the rest of the non-Muslims. In 1947 the ruler strengthened the garrisons further by importing more Hindus and Sikhs) [Korbel, 1966, p. 54–5].

The Congress leaders too visited Srinagar, Soon thereafter RC Kak who had signed the Standstill Agreement with Pakistan was removed as premier replaced by Janak Singh and later by Meher Chand Mahajan. Sheikh Abdullah was released on September 29, 1947 while MC leaders “who had been far less pronounced in their hostility to the *Maharaja* when their political opponent remained behind bars” [Korbel, p. 70]. What is more/less than a month after his release Sheikh Abdullah announced that “If the 40 lakhs of people living in J and K are bypassed and the state declares accession to India or Pakistan, I shall raise the banner of revolt: of course we will naturally opt to go to that Dominion where our own demand for freedom receives recognition and support ...” [*Ibid.*, p. 71]. On October 26, Sheikh Abdullah was asked to form an interim government. On the same day Hari Singh signed the instrument of accession. The very next day Indian troops were dispatched to Kashmir. And three days later Sheikh Abdullah was appointed as the head of emergency administration. In the light of this history the accession and its aftermath acquire even more significance.

On October 26, 1947 the instrument of accession had been signed. The government of India had not shown any demonstrable interest in winning the people's approval for this measure. By referring the Indo–Pak dispute over Kashmir to the United Nations on December 31, 1947 the Indian government was provided a rationale for prevarication. Resolutions passed by the UN Security Council called for ceasefire and proposed withdrawal of troops as the second stage for holding referendum. However, this did not stop the Indian government from allowing four representatives of NC to participate in the deliberations of the Indian Constituent Assembly when the question of merger of Indian states into Indian dominion came up for discussion. In November 1949, Pakistan protested before the UN Commission against the Indian decision to admit Kashmir's four representatives to the Indian Constituent Assembly. India's External Affairs Ministry response dated November 21, 1949 is significant:

While the Constitution of India, which *inter alia* provided for the relation of acceding States to the Government of India, was under consideration it would have been unfair to the Government and the people of the state of Jammu and Kashmir to deny them the opportunity of participation. It was not intended to, and does not, in fact alter the Government of India's determination to abide, in the matter of accession, by the freely declared will of the people of Jammu and Kashmir ... [Noorani, 1964, p. 35].

In signing the instrument of accession the government of India had already declared that "Where the issue of the accession has been the subject of dispute the question of accession should be decided in accordance with the wishes of the people of the state ..." [Noorani, p. 45].

But attempts were made to scuttle popular validation of the accession by the Indian government. Four months prior to the letter from the external affairs ministry to the UN commission, in July 1949, a note circulated by the ministry of states, which was headed by Sardar Patel submitted the following suggestion for consideration by the Drafting Committee of the Constituent Assembly:

- (1) Jammu and Kashmir state may be treated as part of Indian territory and shown in states specified in Part III of Schedule 1. (2) A special provision may be made in the Constitution to the effect that until Parliament provides by law that all the provisions of the Constitution applicable to the states specified in Part III will apply to this state, the power of Parliament to make laws for the state will be limited to the items specified in the schedule to the instrument of accession ... or to the corresponding entries in List I of the new constitution [FIC, Vol IV, p. 556].

Equally significant in this context was Gopalswamy Ayyangar's argument in 1949 — "We have also agreed that the will of the people through the instrument of the Constituent Assembly will determine the Constituency of the state as well as the sphere of Union jurisdiction over the state ..." [B Shiva Rao, 1968, p. 552–3]. The promise of referendum was changed to mean a decision taken by the "will of people through the instrument of the (J and K) Constituent Assembly".

What is important to note is that the Constituent Assembly Gopalswamy Ayyangar talked about was intended as an alternative to plebiscite. And, therefore, Article 306(A) he tabled before the CA unequivocally stated that Article I (which enunciated that India would be a Union of States and that the states and territories of the Union would be the states and their territories specified in Parts I, II and III of the First Schedule) would apply to J and K. It was furthermore stressed that once the J and K CA had made known its choice then the "position of the Jammu and Kashmir State would also correspond as closely as possible to that of the other states in the Indian Union" [Rao, 1968]. Obviously a deliberate ambiguity was being inserted.

When the J and K Constituent Assembly was constituted Nehru informed parliament on March 28, 1951 that "(w)e have made it perfectly clear that the authority of the Security Council is not challenged in anyway by the proposal to have a Constituent Assembly in Kashmir ... the conditions which we consider necessary for a plebiscite are contained in the resolution of the Security Council, resolution of August, 1948 and January 1949" [A G Noorani, 1964, pp. 46–7].

It is argued that the US–Pakistan military pact changed everything, although, as early as May 15, 1954 well after the pact was signed, Nehru said "India still stands by her international commitments on the Kashmir issue and will implement them at the appropriate time" [Noorani, 1964, p. 68]. But the union home minister Govind Ballabh Pant in a speech at Srinagar on July 7, 1955 stated that "Kashmir's accession was a reality which could not be changed because the people, through their representatives in the Constituent Assembly, had decided to remain in India" [Noorani, p. 69].

Not surprisingly by February 10, 1957 Nehru said "I am willing to talk with Pakistan or any country or UN provided two basic facts are accepted. One basic fact is that Kashmir became *part* of India in October, 1947. The other basic fact is that of Pakistan's unprovoked and improper invasion of Kashmir" [*Ibid.*, p. 75]. There was no longer any reference to UN or commitment to plebiscite.⁶

⁶"Kashmir is, undoubtedly, that is legally speaking, historically speaking, constitutionally speaking, a part of India, a part of the Union of India", said Nehru in an interview published in the *Journal of the Indo-Japanese Association*, July–November 1957, quoted in *India the Siege Within*, Penguin, London 1985, pp. 244–5.

But if Kashmir became an integral part of India in 1947 then was the repeated promise of plebiscite merely a charade? Or was it meant to facilitate the process of incorporation under way? What was the vision of post-partition India that did not allow for referendum/plebiscite and instead worked for full merger of the state?

CONSTITUTION MAKING OR MAKING OF CULTURAL MARKERS

The basic ideals of the Indian state are embedded in the Constitution. It was the Constitution which was to bring about social and economic reforms, or so it was hoped. Therefore, it is necessary to identify those characteristics of the Constitution which go on to provide the conceptual framework which lay behind the Indian government's relations with Kashmir.

The Constituent Assembly was not elected on universal franchise but on extremely limited franchise (10% of the population in the provinces and 1% for the Central Assembly). The existing provincial legislatures based on limited voting rights elected members for the Constituent Assemblies. A single party INC had the overwhelming majority recourse was taken to smaller committees where the important proposals were worked out, and organisational discipline could enforce decision, failing which whips were used.

The Cabinet Mission had backed the plans for a federal structure with a limited number of compulsory central subjects such as defence, communications and foreign affairs. The federation would consist of autonomous provinces in which would vest the residuary subjects [B Shiva Rao, 1968, p. 67]. But the partition saw an about-turn with the preservation of India and a strong centre being made the basic objective. With the British Government's announcement of June 3, 1947, the Union Constitution Committee and the Provincial Constitution Committee decided at a joint meeting on June 5 that in view of the June 3 announcement "limitations imposed by the Cabinet Missions plan on the form of the Constitution no longer existed" [S K Chaube, 1973, p. 78]. The next day the Union Constitution Committee arrived at the following decisions: (a) the Constitution should be a federal structure with a strong centre; and (b) residuary powers would rest with the centre. In short the pattern set by the Government of India Act 1935 would be preserved.⁷

⁷There was "little difficulty in settling the other two Lists: they (CA) decided to adopt generally the Provincial and Concurrent legislative Lists of the Government of India Act 1935". In fact Gopalswamy Ayyangar affirmed that the sphere assigned to provinces in the 1935 Act was not encroached upon

Certain other significant changes also occurred which reflect on the general mood within the INC dominated CA. Four of these are important. First is the report of the Linguistic Provinces Commission on December 10, 1948 which by rejecting linguistic provinces also rejected the position maintained by Congress since 1921. It stressed: "In order to secure this stability and integration India should have a strong centre and a national language". It goes on to warn that the "formation of linguistic provinces is sure to give rise to a demand for the separation of other linguistic groups elsewhere". Further: "above all it would bring into existence provinces with a sub-national bias at a time when nationalism is yet in its infancy and is not in a position to bear any strain" [FIC, Volume IV, 1968, p. 476]. Reorganisation of linguistic states took place in the late 1950s only after a long-drawn-out agitation. What is notable is that the CA in attempting to create a strong centre and rejecting the principle of linguistic states made an obvious attempt at 'willed merger' with the agencies of state taking on the role of protector of the 'nation'. A language of the nation was therefore necessary. A Anderson notes: "It was not until the reign of Alexander III (1881–94) that Russification became official dynastic policy: long after Ukrainian, Finnish, Lett and other (linguistic) nationalism had appeared within the Empire" [Benedict Anderson, 1983, p. 83]. Here is an interesting parallel with Hindi-isation in India.

There were two aspects to the language dispute : (a) between Hindi and Urdu, (b) between Hindi and non-Hindi languages. Way back in 1925 Congress resolved that "the proceedings of the Congress shall be conducted, as far as possible, in Hindustani" [B Shiva Rao, 1968, p. 782]. In selecting Hindustani written either in Nagri or Persian characters a compromise was struck. The compromise acknowledged that Hindustani was a composite of Hindi and Urdu accepting, therefore, that Urdu was as much a part of India as Hindi. Considering the emergence of Hindi–Urdu conflict which represented the Muslim and Hindu divide, Hindustani was an eminently sensible choice. Precisely therefore selection of Hindi was a retrogressive step since Hindi was an artificial construct, tracing itself back to the 'sacred' Hindu language of Sanskrit. It was deemed to be the language of the majority of north Indians. No sooner was partition announced than the Congress members became zealous champions of Hindi in Devanagari script as the sole national language for India. When the Congress party met in the Constituent Assembly on August 11, 1949 and unanimously adopted Hindi written in Devanagari as the official language there was no going back notwithstanding appeals by Nehru or Maulana Azad or even the reference made to Gandhi's consistent championing of Hindustani. The

and that only the Federal List was enlarged. See B Shiva Rao, 1968, pp. 609–11.

Hindi zealots had struck a compromise with non-Hindi protagonists by agreeing to postpone adoption of Hindi for official purposes in non-Hindi regions, in return for their support to adopt Hindi and not Hindustani. In adopting Hindi the CA was giving its endorsement to a position that regarded as alien any source other than Sanskrit and any script other than Devanagari to be non-Indian. And considering the whole history of the Hindi–Urdu dispute since third decade of 19th century the identification of Hindi with Hindu was hardly accidental.⁸

The third important change related to minority rights. The Objective Resolution adopted by the CA in December 1946 had stated that “adequate safeguards shall be provided for minorities, backward and tribal area and depressed and other backward classes.” [FIC, Vol II, 1968, p. 4]. Once the announcement of division of India was made there had already occurred some shifting of ground. Thus, the Advisory Committee on Minorities recommended and the CA adopted safeguards in August 1947 which while doing away with ‘separate electorates’ replaced them with ‘joint electorates’: provided that as a general rule there shall be reservation of seats for Scheduled Castes in the various provincial legislative assemblies on the basis of their population, for 10 years. Within a year even these safeguards adopted by the CA were said to “lead to a certain degree of separatism ... contrary to the conception of a secular democratic state” and were shot down by the Advisory Committee on the Minorities [FIC, Vol IV, p. 429]. What was even worse the Committee also dropped the provision for administrative machinery to ensure protection of minorities. The provision for appointment of special officers to investigate and report on minority safeguards was changed. Instead, now only a single officer was to be appointed whose jurisdiction was limited to cover atrocities against the scheduled castes and tribes, Anglo–Indians, and other backward classes [FIC, Vol IV, p. 429]. In other words there was reluctance even to provide for an agency to inquire into atrocities against the Muslims.⁹

⁸In the north-eastern Indian state of Arunachal Pradesh “it has been the conscious policy of the Centre and state government to promote Hinduism and Hindi language in order to bring it close to the ‘mainstream’”, (*The Times of India*, August 1991). Neither any political party nor any newspaper has bothered to comment or demand an explanation. Besides, the identification of Hindi with Indianness and Urdu as an alien language was to result in abolition of nomenclatures such as *Wazir-i-Azam* and *Sadr-i-Riyasat* by 1967. And in January 1990 Kashmiri language was divested of terms with Persian origin to be replaced with sanskritic *rashtrapati*, *pradhan mantri*, etc., *The Statesman* (Delhi), January 19, 1990.

⁹In this connection the moves by the BJP against the Bihar government’s proposal to make the Minorities Commission a statutory body is interesting. BJP says that this move is “unconstitutional” and “will make it (the Minorities Commission) a state within a state. It will be a parallel government — a government of the Muslims, by the Muslims and for the Muslims”. *The Times of India*, September

One should note that even at the time when in August 1947 political safeguards for minorities were being debated, Sardar Patel, chairman of the 40-member Advisory Committee had made clear a position subscribed to by a majority and deserves to be quoted:

When I agreed to reservation on the population basis I thought that our friends of the Muslim League would see the *reasonableness of our attitude and accommodate themselves* to the changed conditions after the separation of the country. But I find them adopting the same methods which were adopted when separate electorates were first introduced in this country and in spite of ample sweetness in the language used there is a full dose of poison in the method adopted [Shiva Rao, 1968, p. 760].

In other words these safeguards were linked to minorities' acknowledgement that the majority was reasonable — the implication being that if the majority is reasonable there is no need for the minorities to feel apprehensive about their future. In other words there is no need for safeguards. Ambedkar maintained otherwise and argued that the minorities "have loyally accepted the rule of the majority which is basically *a communal majority and not a political majority*. It is for the majority to realise its duty not to discriminate against the minorities. ... The moment the majority loses the habit of discriminating against the minority, the minorities can have no ground to exist" [Shiva Rao, 1968, p. 771].

In the name of 'oneness' discrimination was disguised. While Sardar Patel spoke of forgetting "that there is anything like a majority or a minority ... there is only one community", Nehru spoke of the danger of minority "forgetting inner sympathy and fellow feeling with the majority" [Shiva Rao, 1968, p. 772].

Reservation was, however, favoured for the scheduled castes. The underlying reason for different attitude was clear from Jagjivan Ram's proposal that guarantees should be directed to protect racial and religious minorities such as Christians and tribal population from "extinction" and "assimilation of minorities like the Scheduled Castes in the parent body by bringing them to a level equal with that of others in the community" [Shiva Rao, 1968, p. 771]. This is precisely what happened. Scheduled Castes were described as a "section of the Hindu Community".¹⁰ What is

2, 1991. What is interesting is that the central government's proposal announced on September 4, 1991 to give statutory powers to the Scheduled Castes and Scheduled Tribes Commission along the same lines has met with no such ludicrous characterisation.

¹⁰In this context what Ambedkar wrote in his memorandum is relevant even today: "To make religious affiliation the determining factor for constitutional safeguards is to overlook the fact that the religious affiliation may be accompanied by an intense degree of social separation and discrimination ... Muslims are given separate electorates not because they are different from Hindus in point of

interesting is that only after categorising *dalits* as being part of 'hindu society' were safeguards extended to them. This amounted to consolidation of Hindu society.

By extending reservations to the scheduled caste Sikhs (Mazhabis, Ramdasias, Kabir Panthis, Sikhigars, etc.) the Sikhs were *ipso facto* included as Hindus. Conversely, it was implied that social and educational backwardness does not exist outside the Hindu fold. It is a moot point whether the intention was to make conversion of scheduled castes into the non-Hindu fold unattractive or make their entry into Hindu fold attractive. In any case if the move to withdraw safeguards for Muslims is seen in conjunction with the provision of these to other minorities it clearly emerges that cultural markers for demarcation of those considered Hindus was being undertaken.¹¹

Herein lay the logic of giving the state the right to reform Hindu society and the insistence on removing reservations for minorities while allowing them the right to decide on their personal law. It is worth mentioning that the CA had withdrawn the safeguards for the minorities on the ground that this would perpetuate communal difference. The INC leadership pushed through the dropping of safeguards under dubious circumstances in the name of 'one community'. But when it came to personal law all arguments about 'secular democracy' simply evaporated. Indeed, as events four decades later so poignantly showed, differences of a more debilitating kind were being fostered.¹²

Now even at the best of times the neutrality of the state between various religious or social groups means a bias in favour of the majority or the dominant group. In India this became pronounced because the religion of the majority could not but receive greater patronage. And since the Indian state saw its role as being reformer

religion. They are given separate electorates because — and this is the fundamental fact — social relations between the Hindus and the Musalmans are marked by social discrimination. To put the point in a somewhat different manner, the nature of the electorates is determined not by the reference to religion but by reference to social considerations". *Memorandum and Draft Articles on the Rights of States and Minorities* dated March 24, 1947. FIC, Volume II, p. 109.

¹¹The union home ministry in a communication dated December 29, 1983 claimed that conversion of Muslim members of "Cheeta, Merhat and Kathat communities living in district Ajmer ... was reaffirmation of faith". On the other hand it adds, "all precautionary measures have been taken to prevent Adi Dravidars being converted to become Muslims". *Muslim India* (Delhi), Vol II, No 1, January 1984, p. 55.

¹²The debate on Muslim Women's Bill in 1986 is a poignant reminder of how a minority was disabled and how this disablement was used to appease votaries of *Hindu rashtra*. See my 'Muslim Maintenance Bill: A Postscript' in *Economic and Political Weekly*, September 20–27, 1986, pp. 1691–92. See also my comment 'Ruling Party's Defence of Muslim Women's Bill' in *Social Scientist*, June 1986, Volume 15, No 6, pp. 55–58.

of Hindu society the implied tilt became more pronounced with the use of symbols and concepts heavily overlaid with emphasis on its Hindu origins.

This set the tone for subordination at the altar of 'one community' and 'unity'. It is difficult to distinguish between the demand for unity either from strong centre or from a perspective which defines it in accordance with a Hindu-ised notion of India. What also needs emphasis is that members of the CA were also members of government and, in founding the Constitution the collective wisdom of members of the government too was being reflected. As a result the Constitution set out the essential characteristic of official nationalism. In this sense withdrawal of safeguards, rejection of Hindustani, fear of federalism, etc., become significant markers in the attempt to shape India. As a corollary since in Kashmir Muslims were a majority they stood out as the 'other' which had to be assimilated and reshaped in the image of 'India, i.e., Bharat'.

THE THIRD WAY

In 1947 neither of the two major political formations in J and K advocated independence for the state. *Maharaja* Hari Singh maintained a policy of ambivalence And yet the NC leadership began drifting away from India, when it was they who in the first place brought about accession. From the foregoing discussion one can cull the perspective that guided the Indian government's relations with Kashmir. I shall here discuss how these brought about Kashmir's drift away from India.

Once the instrument of accession was signed and despite the NC showing a clear preference for Indian dominion [V P Menon, 1961, p. 376] differences arose over a variety of issues. Simultaneously there was a gradual weakening of left forces within NC and the ascendancy of those forces which were willing to be used by the central government.

The very first objection that the union government had was over the institution of political commanders in the national militia under the emergency administration. Their objection was to the presence of communists or their sympathisers and also the institution itself. Finally, Bakshi Ghulam Mohammed as the deputy prime minister in-charge of the home ministry took over the militia and placed it under commanders supplied by the Indian army [N N Raina 1988, p. 159–60]. In fact the perception of communists as a threat was a recurring theme and thus Patel wrote to Nehru that "I am getting rather worried about Kashmir ... [with] Sheikh *Sahib*'s failure to deal with communist infiltration in the state" [Raina, 1988, p. 198]. But this anti-communism was equally strong within NC ranks and communists were asked to dissolve their

own organisations and individually place themselves under the discipline of the 'war council' set up for leading the 'quit Kashmir' agitation in 1946–47. But together with this the left itself by adopting a flip-flop position allowed the forces opposing them the opportunity to purge them.

They first supported referendum only to oppose it later.¹³ And once they became pre-occupied with US machinations they gave up their previous evenhanded attitude towards the two dominions, only to end up finally seeking merger in India. An editorial in *People's Age* in 1948 argued that 'Kashmir can be saved only by winning over the peasants and ending feudal autocracy and the reactionary policy of the appeasement of the *Maharaja* by the Indian union government and by really liberating the peasants'. Four years later the leader of the party in the parliament appealed "for the creation of an atmosphere in Kashmir conducive to the State's final accession to India". The emphasis had shifted from the concern for 'people' to what was best for India.

As a result the left allowed itself to be used by the union government once Sheikh Abdullah was accused of hobnobbing with the US, little realising that a section of NC led by Sheikh Abdullah was becoming concerned at the way in which New Delhi was obstructing, interfering, and trying to wriggle out of its commitments. It is important to note that throughout 1952–53 the valley was reeling under drought. Indian assistance was offered but with strings attached. Hence, it was not acceptable. But once Sheikh was arrested subsidies were extended to J and K. (Not to forget that these were discontinued by Sheikh Abdullah when he returned to power in 1975).

To be sure the drift was not due to the weakening of the left forces although this did weaken the hold of Sheikh Abdullah. But, the gradual weakening of the left was symptomatic of the problem: interference by the Indian government. Notwithstanding these developments when elections for the CA were held in 1951 NC ensured its dominance through questionable means. When elections took place in September–October 1951 for the 75 deputies AJKNC won unopposed 43 out of the 45 seats for Kashmir–Ladakh a week before the elections. Two independent candidates withdrew later. In Jammu nomination papers of 13 Praja Parishad members were rejected. As a result before the elections Sheikh Abdullah was assured of 58 'friendly' members.

Nehru claimed on October 19, 1951 that "the way people had voted (in J and K) showed clearly that they were with the National Conference and with India". This of course says a lot about Indian government's understanding of democracy. But even more this set the pattern for subsequent elections barring that in 1977. In the March

¹³The CPI said in 1948: "The question of accession must be decided by the democratic verdict of the whole Kashmir people", see N N Raina, 1988, p. 205.

1957 elections in J and K the NC now headed by Bakshi Ghulam Mohammed won 59 of the 72 seats uncontested. The tally of uncontested seats came down to 39 in 1962 polls. But so blatant was the rigging that even Nehru was compelled to chide Bakshi in his letter dated March 4, 1962 that “it would strengthen your position much more if you lost a few seats to *bona fide* opponents” [M J Akbar, 1991, p. 159].

Nevertheless, the point to note is that the NC leadership was willing to ensure that J and K remained within India. Not only did NC representatives including Sheikh Abdullah participate in the Indian Constituent Assembly but maintained a correct approach towards Indian leadership in order to ensure internal autonomy. In April 1964, Sheikh Abdullah revealed that “I sought to ratify the accession and other commitments of mine through the Constituent Assembly. It was the Government of India which contested in the Security Council as well as in Parliament the Assembly’s right to do so” [A G Noorani, 1964, p. 59]. In other words not only was Sheikh willing to ratify the accession but also “other commitments of mine” which really meant the AJKNC programme. But the Indian government did not want him to. Infact they questioned the competence of the J and K CA to undertake this. The full significance of this becomes clear from Sheikh’s reply to Nehru’s complaint that “you do not attach any value to any friendly advice we might give and, indeed, consider it as improper interference ...” In his letter of July 10, 1950 Sheikh replied:

I have several times stated that we acceded to India ... despite our having so many affinities with Pakistan ... because we thought our programme will not fit with their policy, If however we are driven to the conclusion that we cannot build our state on our own lines, suited to our genius, what answer can I give to my people and how am I to face them? [M J Akbar, 1991, p. 147–8].

It is clear that the ‘friendly advice’ amounted to obstructing the NC in implementation of its programme.

Since the NC appeal and popularity depended on its programme which offered to change the material conditions of existence of the people, if these were allowed to be tampered with the credibility of NC would have been impaired. These policies without being directly related to the future of J and K’s relations with India were, nevertheless, the foundation for its furtherance.

LAND REFORM AND THE COMMUNAL TWIST

The total cultivated area in the state was 2,200,000 acre’s most of which belonged to the *Maharaja* or to his feudal vassals. The emergency government abolished all

privileges. Laws were enacted for the protection of tenants so that they could no longer be ejected. A moratorium was declared on their debts, and their rights in mortgaged property reinstated. They were now allowed to retain three-quarter of the produce. By the end of 1950 through the Big Landed Estates Abolition Act land was transferred to the peasants. Under this act former owners were to be paid compensation. But on March 26, 1952 the J and K Constituent Assembly confiscated all landed estates without any compensation. But this policy met with opposition from the union government. The relation between union home ministry and J and K government came under tremendous strain.¹⁴

In a communication sent to the emergency administration led by Sheikh Abdullah on May 4, 1948 on behalf of the union home minister Sardar Patel, his secretary V Shankar Wrote:

Hon Minister has asked me to request you to see Panditji (Nehru) about it ... inviting his attention in particular to the fact that these *jagirs* are being sought to be resumed without any payment of compensation whatever, which is quite contrary to anything that we are doing in the Indian Dominion. It is also to be borne in mind that probably the *jagirdars* would be mostly non-Muslims and this would create a certain amount of discontent and ill-feeling against the Government among the minority (read non-Muslim) community [N N Raina, pp. 161–2].

The two arguments put forward are interesting. In the first place it was being contended that policy of the J and K government was not in line with that of the INC in India. And in the second place the interests of the *Jagirdars* were being advanced on the plea of protecting non-Muslims. That the non-Muslims did not necessarily share the class interests of *jagirdars* was of less importance than the fact that NC government went against the advice of the union government, proceeding along a path which not only differed in terms of policy but also affected the non-Muslim *jagirdars*. Thereby a communal twist was given to the land reform policy.

This was by no means an isolated incident. The union home minister in March 1948 had insisted on the *Maharaja's* prerogative to appoint the prime minister and approve the cabinet. What is more it was suggested that the existing bureaucratic

¹⁴It is worth noting that in freeing the tiller from the unbearable dependence on the landlord and removing the non-economic oppression there was in the years thereafter development of surplus producing farmers. With the pressure on land increasing there was no growth in other productive investments especially in industry. The first major public sector investment took place in the 1980s. Of course the argument extended was that J and K is a border state. But denial of industrial licence to Kashmir as in the case of Punjab deserves closer study, especially in view of the interventionist role of the government.

structure of the autocracy should continue. Very clearly it was being suggested that union government was mistrustful of the NC leadership. And since the *Maharaja* worked under the advice of the Indian dominion and his administration heavily biased in favour of non-Muslims it was more in tune with the interests of the INC government in India.

This is borne out by what India's director of intelligence bureau, B N Mullik, had to say about Patel's hostility towards NC. Sardar Patel, says, Mullik 'apprehended that Sheikh Abdullah would ultimately let down India and Jawaharlal Nehru, and would come out in his real colours; his antipathy to the *Maharaja* was not really an antipathy to a ruler as such, but to the Dogras in general and with Dogras he identified the rest of the majority community in India" [M J Akbar, 1991, p. 146].

RSS DEMANDS FULL MERGER

Later events were to show that despite differences Nehru and Patel shared the strategic vision of union of India. Not only did the Nehru government arrest Sheikh Abdullah but also used the agitation launched by the RSS fronts demanding full merger of Kashmir into India to pressurise NC. By 1951–52 a campaign began in right earnest by right wing parties for abrogation of Article 370 and for the union government's intervention on behalf of non-Muslims in Kashmir. An agitation was launched from Jammu in 1952 by Janasangh, Hindu Mahasabha and Ram Rajya Parishad. The fact that officials of the Punjab government accompanied Shyama Prasad Mokherjee, leader of Janasangh in June 1953 only helped drive home the point that out of ineptitude or worse out of communal sympathies the union government was reluctant to isolate the anti-NC agitation [M J Akbar, 1985, p. 247].

In fact when the Indian government exercised restraint in dealing with Kashmir it was made to appear as a concession in the face of opposition at home. The RSS fronts withdrew their agitation one month after the death of their leader in Srinagar when in fact going by their vitriolic agitation it ought to have picked up. Interestingly this was done after holding series of talks with the union government with the explanation that the movement has achieved the purpose of impressing on the government the urgent necessity of tackling the problem. The objective was the removal of Sheikh Abdullah and his replacement with a more pliable leadership.

When speaking before the J and K CA on October 31, 1951 Sheikh Abdullah referred to "certain tendencies ... asserting themselves in India that may in future convert it into a religious state wherein the interests of the Muslims will be jeopardised ... if a communal organisation had a dominant hand in the Government ..." [M J

Akbar, 1991, p. 142]. There was an immediacy attached to this concern. The new Congress president elected in September 1951 — P D Tandon — was considered communal even by Nehru. Rafi Ahmad Kidwai resigned from the party in protest against communalism within. Also in Indian ruling circles there was sympathy for the Dogra *Maharaja* who was identified with the majority Hindu community and suspicion of NC.

In this surcharged climate the interference of the union government through ‘friendly advice’ accentuated the drift. In retrospect the Delhi Agreement, 1952 which maintained that “sovereignty in all matters other than those specified in the Instrument of Accession continues to reside in the State ... (and) residuary powers ... vested in the (J and K) State itself”, was not meant to be taken seriously. It was an attempt to buy time in order that the NC leadership of Sheikh Abdullah could be handled.

Sheikh Abdullah was arrested on August 8, 1953. Not only was Sheikh’s government refusing to follow ‘advice’ but was also moving in the direction of independence. The arrest took place just days before Sheikh Abdullah had called a meeting to review the situation arising out of the internal instability due to the unresolved question of Kashmir’s future. In the four proposals which an eight-member committee was to consider the common thread in all the four was the choice of independence [A G Noorani, 1964, p. 63]. It was this choice of independence which disturbed Indian leadership since they otherwise showed no reluctance to discuss with Pakistan the future of Kashmir. Within a fortnight of Sheikh’s arrest the prime ministers of these two countries met and reaffirmed their commitment to plebiscite. In fact Nehru is said to have warned the NC leaders, on hearing about their plans to accept the choice of independence, that neither India nor Pakistan could permit independent Kashmir on their borders and that he was prepared to offer Kashmir to Pakistan rather than have a perpetual centre of pressure and international intrigue on its borders [N N Raina, 1988, p. 212–3]. Therefore, two days before the scheduled cabinet meeting to finalise the proposal he was arrested along with number of his colleagues, and his deputy appointed in his place.

Within less than a year a pliable J and K government allowed the central government to usurp authority through two key mechanisms:

- (1) The J and K Constitution (Amendment) Act 1954 deleted Section 75 of the J and K Constitution Act 1939 which had made the council of ministers the final interpreters of the Constitution. Thereby the *Sadar-i-Riyasat*, i.e., the governor acquired this power.
- (2) Constitution (Application to J and K) Order 1954 was issued by the president whereby the jurisdiction of the centre was extended from the original three

subjects of defence, foreign affairs and communication to all subjects on the union list along with the residuary powers.

These went against the very first provision of the Delhi Agreement (July 24, 1952) which gave J and K a special position within the Indian union by conceding that “sovereignty in all matters other than those specified in the Instrument of Accession continues to reside in the state” [A S Anand, 1980, p. 149]. What is interesting to note is that this 1954 order extending the powers of Indian government included two important provisions. Firstly it outlawed any activity which disclaims, questions or disrupts the “sovereignty and territorial integrity of India”. Secondly any “insult to the Indian National Flag, the Indian National Anthem and this Constitution” is deemed to be a treasonable act.¹⁵ A month prior to this on April 13, 1954 customs barrier was removed and J and K became economically an integral part of India.¹⁶

The changes brought about by deposing Sheikh Abdullah in 1953 are far too significant to be dismissed as faulty handling of the situation by the government. One after another various symbols of Kashmiri autonomy and self-identity were attacked. Even before the J and K Constitution was adopted by a truncated CA through presidential orders in 1954, the Indian administration acquired legal cover

¹⁵The importance of respect for the national flag must be understood in the context of J and K which was permitted use of its own flag and this became a recurring point of rancour for the RSS and its sympathisers. The main slogan of the RSS fronts was “*Ek desh mein do vidaan, Ek desh mein do nishaan, ek desh mein do pradhan nahain chalega, nahin chalega*” (Two constitutions, two flags and two heads of state in one country are unacceptable). Therefore, Clause IV of the Delhi Agreement of 1952 states that while the state “should have its own flag ... it was also recognised that the Union flag should have the same status and position in Jammu and Kashmir as in the rest of India” [A S Anand, 1980, p. 150]. After 1954 the J and K flag was removed altogether. The significance of the flag even independent of this irritant must be noted. The colours of the flag were described by the Congress Working Committee resolution in August 1931 thus: “Saffron shall represent the courage and sacrifice, white peace and truth, and green shall represent faith and chivalry”. While explanation for saffron remained the same during the debate on national flag in Constituent Assembly, representing “the spirit of renunciation ... transmitted to us from the beginning of our history” said Sarvapalli Radhakrishnan moving the resolution on the national flag he significantly added that green represented “Our relation to the soil, our relation to the plant life here on which all other life depends” [FIC, Vol I, pp. 492 and 505]. What is more RSS describes the significance of saffron along same lines as embodying “the colour of the holy sacrificial fire that gives the message of self-immolation in the fire of idealism and the glorious orange hue of the rising sun that dispels darkness and sheds light all around”, [Andersen and Damle 1987, p. 93].

¹⁶One upshot of this in any case was that employment in government services acquired a disproportionately high significance. But even here there was a skewed representation with Kashmiri Muslim employment disproportionately lower. Indeed, the higher one goes the lower becomes the presence of Kashmiri Muslims.

for turning 'friendly advice' into decree. Subsequent years saw extension of Article 312 in 1958 bringing J and K under All India Services. By January 1965 Articles 356 and 357 enabling the centre to bring the state under governor's rule without the consent of the state legislature was made applicable for J and K. And in 1986 governor Jagmohan 'concurred' to the centre's extension of Article 249 enabling parliament to legislate even on matters in the state list on the strength of a Rajya Sabha resolution.

The implication of the Indian government's stand on hindsight appears to mean that if the NC chose to join Pakistan or become independent, India would not accept it. However, if the Indian government was permitted to assimilate J and K into India then the union government would not bother too much about legal niceties and international rules.

POINT — COUNTERPOINT

The manner in which a government handles various situations does influence the course of events. But a course which is adopted or not adopted is not a matter of personal whim or desire. Every situation carries within it a number of possibilities, albeit within the parameters set by the situation. For instance in 1948 the CA rejected the demand for linguistic states but by 1956 demand for linguistic states were conceded, only after agitations for linguistic states gathered momentum. Compared to the relative ease with which this demand was accepted it is remarkable that the demand for Punjabi Suba had to wait for another 11 years. And this was done in a form that created new conflicts. What stands out is the difference in the handling of the two. It was as if two different yardsticks were being applied depending upon the proximity to the 'mainstream'.¹⁷

As far as Kashmir is concerned two acts of parliament are particularly relevant. Firstly in 1963 through the 16th Amendment to the Constitution all candidates were obliged to take an oath to uphold the 'integrity of India'. It was this provision which was used to rig the Kashmir elections in 1967 when the returning officer prevented the opposition candidates from taking oath. Secondly the Unlawful Activities (Prevention) Act 1966 held that anything 'which is intended or supports any claim to bring about on any ground whatsoever the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites

¹⁷"The Congress found itself in a dilemma", wrote Indira Gandhi, "... to concede the Akali demand would mean abandoning a position to which it [Congress] was firmly committed and letting down its Hindu supporters in the Punjabi Suba", quoted in Hukam Singh's, 'The Other Side', *Punjab the Fatal Miscalculation*, Patwant Singh and Harji Malik (eds), New Delhi 1985.

any individual or group of individuals to bring about such cession or secession' is deemed to be unlawful. This act was used to ban the Plebiscite Front in 1971.

Each new situation narrowed the possibilities for accommodation, Independence, became a credible alternative only when prospects of internal autonomy for Kashmir within India receded. It was as though every new situation reduced whatever chances there were for working out a solution within the political boundaries of India. The overwhelming majority which Sheikh Abdullah received in 1977, the only election considered fair, confirms that separation was not the only possibility available then.

But the qualitative break appeared in 1953 since this set a new pattern of relations where more than elsewhere in India the central government took direct control and above all by robbing AJKNC of its credibility among the Kashmiris. It should not be forgotten that the arrest of Sheikh Abdullah led to widespread agitation. Hundreds were arrested and between 30–800 killed. By 1954 the state legislature 'for reasons of security' was empowered to impose restrictions on basic political rights. It deserves to be mentioned that the protagonists of forced merger did not bother to demand extension of Articles 19–22 of Indian Constitution embodying fundamental rights to J and K until 1979 [A G Noorani, 1991, p. 22].

Throughout 1953–75, despite repression the movement for plebiscite and for the release of Sheikh Abdullah continued. It was the popularity of the demand that made it necessary for every election — barring the one in 1977 — to be rigged with parties supporting plebiscite not permitted to participate.

The major setback suffered by NC was when Sheikh Abdullah signed the agreement with Indira Gandhi in 1975. India's 'victory' against Pakistan in 1971 and subsequent developments had persuaded Sheikh Abdullah to negotiate a settlement. While it enabled him to return as the chief minister having once been the *Wazir-i-Azam* it also won him assurance that all acts and ordinances issued after his arrest in 1953 were to be reviewed. In return Sheikh Abdullah was to accept that J and K was an integral part of India. Interestingly the agreement was never tabled before the parliament. Review of all acts and ordinances also never took place.

What compounded the problem was the replacement of NC government led by Farooq Abdullah in 1984 followed by the NC's alliance with the Congress(I) and its return to power through rigged elections.

One characteristic of the post-independent Indian state is that it is indifferent to peaceful agitation. As a result throughout the 1950s, 60s, and 70s unarmed struggles were contained through sheer brute force. But militancy commenced in the valley in 1988. As a result although the security forces are present in large numbers they no longer enjoy a monopoly of violence. What is notable is that the presence of militants

has enabled the civilian population to begin a no-tax campaign. Beginning 1989 with refusal to clear electricity bills it has now snowballed into civil disobedience with people simply refusing to pay taxes and tariffs. Thus, for instance receipts on account of electricity dropped from ₹21.86 crore in 1988–89 to ₹14.42 crore in 1989–90. The sales tax department found its revenue reduced from ₹23.50 crore in 1989–90 to ₹10.06 crore in 1990–91 while the income tax department has stopped functioning.¹⁸

It is argued that several other states share in varying degrees the experience of J and K and yet not all exhibit secessionist tendencies. But some of the areas where separation is demanded share one essential feature with Kashmir — they do not conform to the self-image of mainstream in India. In other words they do not conform to the image of Hindu in one or several respects. Nevertheless, even amongst them there are differences. The Kashmir issue is associated with partition and Kashmir shares common borders with Pakistan. Kashmir's Muslim majority status allowed the divide brought about by partition to persist. In other words for official nationalism it was a constant reminder of the 'other'. Besides, Kashmir was used both to question the 'two nation' theory of AIML as well as to disguise the Hinduness of India.

On the other hand at the level of oppositional politics throughout the past four decades, there has not been any concerted allIndia protest or show of solidarity with the Kashmiri people. The same cannot be said for the RSS and its fronts which have periodically agitated to demand merger, abrogation of Article 370; imposition of military rule, and made unfounded allegations about persecution of non-Muslims, destruction of temples, etc. Not only have they be taken seriously, governments of the day have lent credibility to these allegations. Indeed, it is an indication of the concern of the Indian liberal and left intelligentsia that they have not hesitated in expressing solidarity with Kashmiri Pandits but tempered every criticism of criminal violence of the security forces with condemnation of the 'Islamic fundamentalism' or 'communal secessionists' in Kashmir.

CONCLUSION

What is important is to note how a desire for co-existence in relative peace and stability changed into conflict in J and K. It would not be an exaggeration to suggest that had referendum taken place in 1947–48 the majority of the Kashmiris would have voted along with the AJKNC. Today it is felt that NC has contributed to the making of the tragedy that has befallen the Kashmiri Muslims. Not only did the

¹⁸ *The Times of India* (Delhi), September 2, 1991.

AJKNC ask for Indian military assistance in 1947 but in the war of 47–48 AJKNC actively participated. But the union government scuttled this move.

It was the democratic perspective behind the appeal of '*Naya Kashmir*' programme which had brought about a convergence of interests of the AJKNC and INC. Whereas for the NC it offered a possibility of coexistence and stability to undertake major reforms. For INC the accession of Kashmir into India was used to question the two nation' theory of AIML. In so far as Kashmir's accession into India weakened the rationale for creation of Pakistan to that degree at least Kashmiri people's drift away from India amounts to questioning the secular democratic credentials of official nationalism. It is then pertinent to propose that the root of the problem lies in defining Indianness in a way that ruling class interests become coterminous with national interests and nation becomes coterminous with a religious community. A two-way process. (I am reminded of an issue that embittered, relations between the AIML and INC when working together in the Interim Government in 1947. The then finance minister Liaqat Ali Khan in his budget proposals recommended a 25% tax on all business profits of more than ₹1 *lakh*. "This was interpreted in congress circles", says VP Menon, "as an attempt to penalise the Hindu capitalists and to bring about dissension among the right wing and the socialist group within the Congress party" [S K Chaube, 1973, p. 69]).

In most Indian writings, however, the characterisation of the movement in Kashmir as communal and fundamentalist proceeds from the argument that the Kashmiri Pandits are being hounded out of Kashmir and since they do not share the desire for referendum the demand cannot be 'nationalist' since nationalism is a secular identity. The contrary is however true. Nationalism is not the opposite of religious identity. The point of commonality is not just the religious zeal. The point is that every 'imagined political community' defines itself on one or more ethnic category. In India for instance the notion of 'unity in diversity' of culture is said to be the basis of Indian nationalism. Admittedly much more is made of unity than diversity. And even the diversities are so understood that they end up appearing to be variations of essentially the same. Therefore, the constant refrain of tracing the lineage of the Indian nation-state to a particular Hindu remote past. Needless to add that even this Hindu is a construction [Romila Thapar, May 1989].

But what is even more interesting is that the by and large Hindus of the valley do not share a consciousness of common interests and therefore faced with their disproportionately high representation in government services, especially the higher one moves up, a divide emerges with the Hindus refusing to acknowledge this fact. To add to this is the steady refrain of alleged discrimination and persecution when in actual fact between 1947–90 there had been few incidents of communal violence. On

the other hand, despite sharing commonalities once they subsumed their identities in the notion of Indian nationalism they became the votaries of imposed merger at once removing themselves from their fellow Kashmiris. And despite being minuscule their identification with the Indian nation on religio-cultural grounds made them repositories of the particular fabrication of Indianness. To this must be added the impact of a spate of riots through the 1960s, 70s and 80s. In fact the changing pattern of violence against the minorities in the 1980s with the active participation of the agencies of the state helped accentuate the differences along lines of religious community. This only highlights the move to legitimise the role of religion as a cohesive factor for identity formation.

It is interesting to note that in the spread of the Hindu '*rashtra-rajya*' notion, the role played by Kashmir has been quite substantial. When the Jana Sangh was formed, SP Mookerjee drew the attention of delegates to two issues: the special relationship of Kashmir with India and the condition of Hindus in East Bengal. And the manifesto of the party floated by RSS focused on '*bhartiya* culture', 'hindi as link language', 'full integration of J and K', and denial of safeguards for minorities [Andersen and Damle, 1987, pp. 188–9]. If these are reflected in the Indian government's relations with Kashmir and the making of the Constitution, shorn of the vitriolic verbiage, the convergence is not mere co-incidence.

The concern for the interests of the nonMuslims exhibited by the union government, the erosion of autonomy, treating J and K as a rebellious province through frequent change of government leaders, dismissal of governments and imposition of direct rule, all these find sustenance in the notions of union, language policy, safeguards for minorities, reforming and to that extent protecting Hindu society and the peculiarities of godly secularism¹⁹ practised in India. In their turn all these provide the 'source credibility' [Dipankar Gupta, July 1985, pp. 218–20] for the alienation of Kashmiri from India and thus the demand for exercising right of self-determination.

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¹⁹When All India Radio officials decided to ban recitation of religious texts over AIR, members of CA took umbrage and AIR was reminded that "India believes in God and therefore Indian State must remain a State of God. It must be a Godly State and not a Godless State. This is our meaning of secularity". See *Secular State and Indian Constitution* by Robert D Baird, Manohar, Delhi, 1981, p. 399.

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